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OCT 31 2006

In re Application of :
Kent G. Anderson :
Application No. 09/970,747 : DECISION ON PETITION
Filed: October 2, 2001 : UNDER 37 CFR 1.181
For: METHOD :
:

This is a decision on the paper filed June 28, 2006, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is dismissed.

Any request for reconsideration should be filed within two (2) months from the mailing date of this decision. Note 37 CFR 1.181(f).

This application was held abandoned for failure to timely reply to the Nonfinal Rejection mailed November 16, 2005.

Petitioner states that a timely response was submitted on March 13, 2006. However, the evidence submitted with the petition on June 28, 2006, is not sufficient to substantiate that a reply was submitted on March 13, 2006.

Additionally, petitioner is reminded that each distinct subject matter must be contained in a separate paper and signed. See 37 CFR 1.4(c) and (d).

For the reasons stated above, the petition to withdraw the holding of abandonment cannot be granted at this time.

Petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR 1.137(b). Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off.

Gaz. Patent Office 63 (October 21, 1997). An "unintentional" petition must be accompanied by the required petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement of unintentional delay is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.


Karen Creasy
Petitions Examiner
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